REMARKS

In a final Office Action dated February 8, 2005, the Examiner rejected claims 1, 2, 4-7, 9-12, and 14-16 under 35 U.S.C. §102(e) as being anticipated by Nitta (U.S. patent no. 6,400,731). The Examiner objected to claims 3, 8, 13, and 17 as being dependent upon a rejected base claim but as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The rejections and objections are traversed and reconsideration is hereby respectfully requested.

The Examiner rejected claims 1, 2, 4-7, 9-12, and 14-16 under 35 U.S.C. §102(e) as being anticipated by Nitta. In particular, the Examiner noted that the feature asserted by the applicants of an initial state that is not zero is not recited in the rejected claims.

Claims 1 and 10 have been amended to provide for setting or determining an initial state of an encoder from a set of at least two allowable initial states based on the data rate, wherein at least one initial state of the at least two allowable initial states is a non-zero state. Claims 5 has been amended to provide for setting an initial state of a Trellis diagram from a set of at least two allowable initial states based on a data rate, wherein at least one initial state of the at least two allowable initial states is a non-zero state, and claim 14 has been amended to provide a means for decoding the received data utilizing a Trellis diagram having an initial and a final state based on a transmission rate, wherein the initial state of the Trellis diagram is one of at least two allowable initial states and wherein at least one initial state of the at least two allowable initial states is a non-zero state.

These features of claims 1, 5, 10, and 14 are not taught by Nita. Nitta teaches nothing concerning setting or determining an initial state of a convolutional encoder or setting an initial state of a Trellis diagram used to decode data. The IS-95 standard specifically teaches that each encoder (and correspondingly, each decoder) is initially set to the zero state and Nitta teaches nothing that indicates otherwise. Therefore, nowhere does Nita teach a setting or determining of initial state of an encoder or a Trellis diagram from a set of at least two allowable initial states based on a data rate, wherein at least one
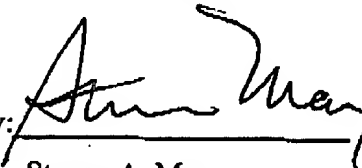
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initial state of the at least two allowable initial states is a non-zero state. Accordingly, the applicants respectfully request that claims 1, 5, 10, and 14 may now be passed to allowance.

Since claims 2-4 depend upon allowable claim 1, claims 6-9 depend upon allowable claim 5, claims 11-13 depend upon allowable claim 10, and claims 15-17 depend upon allowable claim 14, the applicants respectfully request that claims 2-4, 6-9, 11-13, and 15-17 may now be passed to allowance.

As the applicants have overcome all substantive rejections and objections given by the Examiner and has complied with all requests properly presented by the Examiner, the applicants contend that this Amendment, with the above discussion, overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the applicants respectfully solicit allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter.

Respectfully submitted,

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